Agenda Item #: 6F-3

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: March 17, 2009

[ ] **Consent** [XX] **Regular**
[ ] **Workshop** [ ] **Public Hearing**

Department: Facilities Development and Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve a budget transfer in the amount of $3,460,917 from Reserves in the 80.705 M NAV 01, Convention Center Fund (3014) which reallocates monies within the fund to increase the Renewal/Replacement ("R/R") Line from $2,400,000 to $5,860,917;

B) authorize Staff to prepare an amendment to the Tourist Development Plan/Ordinance to allow for the use of the 4th cent revenues for renewal/replacement at Roger Dean Stadium;

C) allocate $13,000,000 from the Bed Tax 4th and 1st Cent General Reserves to establish a Renewal/Replacement Restricted Reserve within the same fund; and

D) authorize Staff to commence negotiations with the Jupiter Stadium LTD ("Teams") on an amendment to the Use Agreement for Roger Dean Stadium to address the Team's annual contribution to the R/R Restricted Reserve, establish procedures for the use of the funds as well as any other terms that the Teams and the County believe need to re-addressed.

Summary: FDO Staff in conjunction with Global Spectrum and the Teams conducted a comprehensive condition analysis to update its 10 year forecast of R/R requirements at both the Convention Center and Roger Dean Stadium; the two County owned facilities funded with Bed Tax Revenues. A total of $18,000,000 in R/R expenditures are forecasted for the two facilities over the next 10 years. Staff also looked at other issues which impact the establishment of a R/R project line when using bed tax revenues as the funding source, and the legalities associated with funding a R/R fund for Roger Dean Stadium compliant with the private activity restrictions of bonds which were used to fund Roger Dean Stadium. FDO Staff presented its recommendations to the Tourist Development Council (TDC) on February 12, 2009. The TDC concurred with all recommendations but for the amount of funding to be set aside for this purpose (Motion C). FDO Staff recommends that a R/R Fund Restricted Reserve be allocated in the amount of $13,000,000 from the 1st and 4th Cent Bed Tax General Reserve to be used solely for R/R at the Convention Center and Roger Dean Stadium. The $13,000,000 set aside now, combined with interest to be accrued as well as annual revenues received from the Teams should be sufficient to meet the estimated $18,000,000 in R/R needs at the two facilities over the next 10 years. The TDC's alternate recommendation was: 1) a one-time transfer of $6,400,000 from 1st Cent Reserves to the R/R Restricted Reserve for the Convention Center and the Stadium, and 2) begin annual contributions of $675,000 annually in 2014 from the 4th and/or 1st Cent Annual Reserves to the R/R Restricted Reserve. Staff is recommending that the Board proceed with its recommendation as the TDC's recommendation; 1) does not result in a sufficient source funding for the renewal/replacement account over the 10 year period, 2) does not address any of the policy issues associated with providing funding to protect the existing assets prior to taking on or creating new monetary obligations, 3) leaves sufficient general reserve balances (approximately $9,000,000) for future capital projects, and 4) leaves excess annual revenues of approximately $600,000-$900,000 for building the general reserve balance or for allocation to other allowed uses/purposes. **(FDO Admin) <u>Countywide/District 7/1</u> (MC)**

Background and Policy Issues: Attached is a memo to the BCC dated February 20, 2009 which discussed all issues associated with identifying; 1) the R/R needs at both facilities, 2) the legalities associated with establishing a R/R Fund at Roger Dean Stadium, and 3) proposed funding strategy for the R/R Fund.

Attachments:

1. Budget Transfer in Fund 3014
2. Memo to the Board of County Commissioners dated February 20, 2009

Recommended by: Audrey Wolf   2/24/09
Department Director   **Date**

Approved by: [signature]   3/6/09
County Administrator   **Date**

II. FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE
POSITIONS (Cumulative)

Is Item Included in Current Budget? Yes X No____

Budget Account No: Fund ______ Department ______ Unit ______ Object
Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: ________________________

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Development & Control Comments:

3.12.09
OFMB 3/13/09 CN 3/2/9

3/13/09
Contract Dev. and Control

B. Legal Sufficiency:

Maureen Cullen
Assistant County Attorney

C. Other Department Review:

____

09- 0587

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER

FUND 3014 - 80.705 NAV 01
BGEX-410-022409-1105

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 02/24/2009	REMAINING BALANCE
Reserves								
821 9811	9909 Reserve Improvement Program	2,898,263	3,960,917		3,460,917	500,000	0	500,000
Convention Center R&R								
411 B371	4907 Building Imp Non Capital	2,400,000	2,400,000	3,460,917		5,860,917	0	5,860,917
	Total			**3,460,917**	**3,460,917**			

	Signatures	Date
Facilities Development & Operations INITIATING DEPARTMENT/DIVISION	Anthony Wolf	2/24/09
Administration/Budget Department Approval	[illegible]	3-13-09
OFMB Department - Posted		

3/5/09

3/13/09

By Board of County Commissioners
At Meeting of March 17, 2009

Deputy Clerk to the
Board of County Commissioners

Facilities Development & Operations Department
2633 Vista Parkway
West Palm Beach, FL 33411-5603
(561) 233-0200
FAX: (561) 233-0206
www.pbcgov.com/fdo

TO: Jeff Koons, Chairman, and Members of the Board of County Commissioners

FROM: Audrey Wolf, Director
Facilities Development & Operations

Ross C. Hering, Director
Property & Real Estate Management Division

DATE: February 20, 2009

RE: *Establishment of Renewal and Replacement Funds for the Palm Beach County Convention Center and Roger Dean Stadium*

The purpose of this report is to provide the Board of County Commissioners with; 1) an update as to the status of the capital improvement program for the Convention Center and Roger Dean Stadium ("Stadium") and 2) a recommendation on funding source(s) to address the recurring capital needs (renewal/replacement). These are the two major facilities which were designed and constructed with Bed Tax revenues.

1.0 ***Recommendations for Establishing and Funding a Renewal /Replacement Fund for the Convention Center and Roger Dean Stadium.***

The recommendations contained in the following analysis are summarized in this Section. The recommendations with which the TDC concurred at its February 12, 2009 meeting are as follows:

1.1 That the remaining Convention Center bond funds in the amount of $5,860,917 be designated for the Renewal/Replacement Fund for the Convention Center.

1.2 That a Renewal/Replacement Fund be established for the Stadium.

1.3 That County commence discussions with the Team for an amendment to the Agreement to address the Team's annual contribution to the R/R Fund, which should be no less than $111,000 annually. In addition, the amendment would modify the capital reserve account provisions of the Agreement to reflect the agreed upon procedures for use of the account for renewal/replacement purposes, a term adjustment as well as any other provisions that the Teams and County believe need revisions. At the TDC Meeting the Teams represented that they supported this effort and were willing to make the annual funding commitment to the level allowed under the bonds (estimated at approximately $235,000 annually).

1.4 That the 4th and 1st cent bed tax revenues be used to establish the Renewal/Replacement Fund for both the Convention Center and the Stadium.

1.5 That the Tourist Development Plan/Ordinance be amended to authorize use of the 4th cent revenues for Renewal/Replacement Fund for the Stadium.

The only issue on which the TDC did not concur with FDO Staff's recommendation was the amount of bed tax funding that should be set aside for renewal/replacement.

FDO Staff recommended that a Renewal/Replacement Fund restricted reserve be established at this time transferring $13,000,000 from the 1st and 4th cent general reserve balance, and that the restricted reserve be used solely for Renewal/Replacement at the Convention Center and Stadium. The $13,000,000 set aside now is estimated to be sufficient to fully fund the Renewal/Replacement requirements estimated at $18,000,000 over the 10 year period when; 1) taking into account interest earnings and 2) annual contributions from the Teams towards Renewal/Replacement at Roger Dean Stadium.

The TDC's recommendation included: 1) a one-time transfer of $6,400,000 from 1st Cent Reserves to the Restricted Reserve for Renewal/Replacement Fund for the Convention Center and the Stadium, and 2) begin annual contributions of $675,000 annually in 2014 from the 4th and/or 1st Cent Annual Reserves to the Restricted Reserve for Renewal/Replacement Fund for the Convention Center and the Stadium.

The TDC's recommendation does not result in a sufficient source funding for the renewal/replacement account over the 10 year period, nor does it address any of the policy issues associated with providing funding to protect the existing assets prior to taking on or creating new monetary obligations.

2.0 <u>Renewal/Replacement Fund for the Convention Center</u>

FDO Staff, in conjunction with the Staff from Global Spectrum, conducted a condition analysis and 10 year forecast of capital requirements at the Convention Center. The results of that analysis/forecast are included as Exhibit A to this report. The key findings of that analysis/forecast are summarized below.

In January 2005, the Board considered an item that established the use of remaining bond funds ($80.705 M NAV 01) from the construction of the Convention Center ("Bond Funds"). Including previously unallocated reserves in the bond fund, there was a total of $3,832,000 in funds remaining for allocation to eligible projects/uses. At the recommendation of FDO and Global Spectrum Staff, and with the recommendation of the TDC on December 9, 2004, the Board approved the re-allocation of funds to various projects including the establishment of $2,400,000 in seed money for the renewal/replacement fund. In addition, that approval included the following direction "*...Additional contributions (to achieve 9% of the construction costs by Year 5) in the amount of $3,100,000 to the Renewal/Replacement Fund are recommended during Years 1-5 at $620,000/year.*"

In June of 2005, FDO Staff made additional budget transfers necessary to implement this direction as many of the expenses and sub-projects had been encumbered and/or completed. As this Board item was being prepared, FDO Staff was advised by TDC Staff that it would not be able to make the $620,000/year contribution from bed taxes (to supplement the $2,400,000 allocated from remaining bond funds), but only $250,000 annually. To date, no funds have been transferred. Table 2.0 identifies the current allocation of remaining bond funds.

__Table 2.0__
__Convention Center Remaining Bond Funds as of January 1, 2009__

Various CIP – Bond	$ 780,917
Interim Parking – Bond	$ 597,000
Renewal/Replacement – Bond	$ 2,400,000
Renewal/Replacement – Bed Tax	$ 0
Reserves – Bond	$ 2,898,000
Total	$ 6,675,917

FDO Staff is now recommending a second re-allocation of remaining bond funds to reduce the funds needed for CIP projects and reduce the bond reserve. This results in a suggested re-allocation according to Table 2.1.

__Table 2.1__
__Convention Center CIP Funds as of January 1, 2009__
__Reflecting Re-Allocation After CIP and Reserve Fund Adjustment__

Various CIP – Bond	$ 315,000
Renewal/Replacement – Bond	$ 5,860,917
Renewal/Replacement – Bed Tax	$ 0
Reserves – Bond	$ 500,000
Total	$ 6,675,917

For the remainder of this report, the total of $5,860,917 will be referred to as the R/R Fund Seed Money. The renewal/replacement requirements for the Convention Center have been forecasted over the next 10 years as follows.

__Table 2.2__
__Forecast of 10 year Convention Center Renewal/Replacement Funding Requirements__

2009	2010	2011	2012	2013
$69,200	$289,300	$867,900	$1,035,000	$3,160,350

2014	2015	2016	2017	2018
$1,813,400	$785,600	$723,000	$1,060,850	$697,000

The total Renewal/Replacement funding forecasted over the next 10 years is $10,501,600. Assuming a 20% contingency the 10 Year Renewal/Replacement Fund Total should be established based on a requirement of $12,601,920. This is reduced by the Renewal/Replacement Fund Seed Money ($5,860,917 from remaining bond funds) resulting in a remaining 10 Year Renewal/Replacement Fund Supplemental Funding Requirement totaling $6,741,003.

The annual funding requirement is based on an average over the 10 years resulting in an annual contribution of $675,000. **FDO Staff recommends that; 1) the remaining bond funds for the Convention Center in the amount of $5,860,917 be designated for the Renewal/Replacement Fund for the Convention Center, and 2) and that the remainder of the R/R funding requirement be met through a one time transfer from the 1st and 4th Cent Bed Tax General Reserve.**

3.0 ***Renewal/Replacement Fund for Roger Dean Stadium***

FDO Staff, in conjunction with the Staff from Jupiter Stadium Partners ("Teams," the entity with management responsibilities at the Stadium per a Use Agreement executed in 1996), conducted a condition analysis and 12 year forecast of capital requirements at the Stadium. Details as to the assignment of responsibility for maintenance and capital improvements pursuant to the Use Agreement as well as the results of that analysis/forecast are included as Exhibit B to this report. The key findings of that analysis/forecast are summarized below.

Table 3.0 forecasts the needs for renewal/replacement dollars through the Year 2020. In the case of the Stadium, a forecast period of 12 years was used as the basis for determining the appropriate level of annual contribution to the Renewal/Replacement Fund due to the magnitude of expenditures in Years 10-12.

Table 3.0
Forecast of Roger Dean Stadium 12 year Renewal/Replacement Funding Requirements

2009	2010	2011	2012	2013
$345,000	$846,600	$354,800	$662,500	$528,450

2014	2015	2016	2017	2018
$628,300	$445,110	$124,900	$54,100	$2,757,550

2019	2020
$2,360,550	$1,041,000

The total Renewal/Replacement funding forecasted over the next 12 years is $10,148,860. Assuming a 20% contingency the 12 Year Renewal/Replacement Fund Total should be established based on a requirement of $12,178,632. This results in an annual Renewal/Replacement Fund Requirement of $1,014,882.

The Teams have been making capital improvements since the inception of the Use Agreement. Table 3.1 summarizes those capital expenditures. Expenses associated with hurricane repair have not been included.

Table 3.1
Accounting of Last 10 Years of Capital Improvement Funding by the Teams

1999	2000	2001	2002	2003
$227,100	$26,650	$137,600	$13,000	$97,100

2004	2005	2006	2007	2008
$102,580	$60,000	$79,900	$81,700	$442,400

The 10 year total of capital expenditures by the Team are $1,268,030 less $160,000 which was reimbursed by the County from the capital reserve account, resulting in total 10 Year expenditures of $1,108,030. This results in an average annual capital expenditure by the Teams of $111,000.

While the Teams are meeting the specific requirements of the Use Agreement by maintaining the facility in excess of the standard, there are capital improvements that are going unmet. If the Teams and the County were to agree, the Teams could make capital improvements amounting to approximately $234,000 annually for the remainder of the term and still not exceed private activity revenue limitations imposed by the bonds. However, this would obviously require agreement by the Teams For this report, only the average historical annual capital expenditure was utilized.

FDO Staff recommends that; 1) a Renewal/Replacement Fund be established through a one-time transfer of funds from the 1st and 4th Cent Bed Tax General Reserve[a] , and 2) County commence discussions with the Team for an amendment to the Agreement to address the Team's annual contribution to the R/R Fund, which should be no less than $111,000 annually. In addition, the amendment would modify the capital reserve account provisions of the Agreement to reflect the agreed upon procedures for use of the account for renewal/replacement purposes, a term adjustment as well as any other provisions that the Teams and County believe need revisions.

4.0 Funding for the Renewal/Replacement Fund

The remainder of this analysis focuses on what funding sources are legally available to supplement the Renewal/Replacement Fund for the Convention Center and establish a Renewal/Replacement Fund for the Stadium, and not on the policy issues of using a particular funding source.

The two legally available funding sources are: 1) the Palm Beach County General Fund (Ad Valorem) and 2) Tourist Development Taxes (Bed Taxes). This report addresses only the use of Bed Tax as the use of ad valorem taxes in support of these facilities is contrary to past direction of the Board of County Commissioners.

Expenditures of bed taxes are established as part of the Tourist Development Plan enacted under Section 17-116 of the Palm Beach County Code (the "Plan"). The Plan allocates the 1st and 4th cents for two specific purposes: The Convention Center and the Baseball Stadium. The funding allocation to each of these two projects is discussed in more detail below and in Exhibit "C" to this memo.

Section 4.1 Funding Source for the Establishment of Renewal/Replacement Fund

Revenue generated by each cent of the bed tax has been roughly $5,600,000/year over the last few years. Revenue is likely to decrease by as much as 20% during the current economic downturn, so for purposes of this analysis an estimate of projected revenues of $4,500,000/year/cent was used. This equates to a total of $9,000,000/year available from the 1st and 4th cent for expenditures associated with the Convention Center and Stadium. Currently, debt service on the Convention Center is $5,337,000 and debt service on the Stadium is $2,059,000 for a combined total of $7,396,000.

[a] Subject to the required amendment of the Tourist Development Plan/Ordinance discussed in Exhibit B to this memo. Such an amendment will allow for the 4th Cent Bed Tax Revenues to be used for R/R at Roger Dean Stadium.

The projected net annual revenue the 4th and 1st Cent after debt service and operating losses[b] is summarized below:

4th & 1st Cent revenue	$9,000,000
Debt Service	-$7,400,000
Convention Center operating losses	-$1,500,000
2nd, 3rd, 5th Cent funding	$ 250,000
West Palm Beach contribution to Convention Center	$ 250,000
	$ 600,000

It should be noted that the foregoing calculations assume a level revenue stream and level debt service payments which does not account for any increase in revenues or reduction of debt service payments, both of which will increase net revenues as the bonds are amortized and the economy improves. The point here is that this is a conservative estimate of available revenue and there is a surplus of revenue to cover debt service and operations on these two facilities for the foreseeable future.

It should also be noted that there is approximately $22 million available in the reserve balance of 1st and 4th cent revenues.

FDO recommends utilizing the 4th and 1st cent revenues and/or reserves to establish the renewal/replacement fund before considering any recommendations to re-allocate the 2nd, 3rd or 5th cents.

As such, FDO Staff recommends that the 4th and 1st cent bed tax revenues be used to establish the Renewal/Replacement Fund for both the Convention Center and the Stadium. FDO also recommends the Tourist Development Plan/Ordinance be amended to authorize use of the 4th cent revenue for Renewal/Replacement Fund for the Stadium.

Section 4.2 Allocation of Funds from 4th and 1st Cent for Renewal/Replacement Fund

For other existing Renewal/Replacement Funds, the County utilizes an annual contribution as a budget constant or given. Using the annual funding requirements identified above for both the Convention Center and the Stadium, a total annual contribution in the amount of $1,600,000 from the 4th and 1st Cents is required. This would utilize all of the conservatively estimated remaining available revenues as identified above in Section 4.1.

An alternate approach would make a one-time transfer from reserves in the amount of $13,000,000 from the 4th and 1st Cent reserves to a Restricted Reserve for the Renewal/Replacement Fund. This would fully fund the Renewal/Replacement Fund for 10 years and not require annual contributions. In this scenario, any annual revenues generated annually could be placed back in the General Reserve for other special projects or any other authorized expenditure.

[b] The Convention Center has been operating at a loss of $1,200,000 - $1,500,000 per year. A portion of the operating deficit is offset by a transfer of $250,000 annually from the second, third and fifth cents of the bed tax and $250,000 from the City of West Palm Beach. The balance of the operating losses at the Convention Center in the amount of $700,000 - $1,000,000 is funded out of the 4th cent revenues.

FDO Staff recommends a Renewal/Replacement Fund Restricted Reserve fund be set up and initially allocated $13,000,000 from the 1st and 4th cent reserve fund balance, and that the restricted reserve fund be used solely for renewal/replacement of the Convention Center and Stadium.

On February 12, 2009, the TDC made an alternative recommendation which included: 1) a one-time transfer of $6,400,000 from 1st Cent Reserves to the Restricted Reserve for Renewal/Replacement Fund for the Convention Center and the Stadium, and 2) begin annual contributions of $675,000 annually in 2014 from the 4th and 1st Cent Annual Reserves to the Restricted Reserve for Renewal/Replacement Fund for the Convention Center and the Stadium.

EXHIBIT A
CONVENTION CENTER RENEWAL/REPLACEMENT REQUIREMENTS

January 20, 2009

To: Tourist Development Council, Finance Sub-Committee
From: Audrey Wolf, Director Facilities Development & Operations
Re: ***Convention Center – Status of Renewal and Replacement Fund***

The purpose of this report is to provide the Tourist Development Council and the Board of County Commissioners with an update as to the status of the capital improvement program for the Convention Center. This Report focuses on; 1) documenting the physical condition of the Facility, 2) identifying the current amount of money in the Renewal/Replacement Fund (R/R Fund), and 3) recommending the amount and source of additional funding for the R/R Fund.

Background

In January 2005, the Board considered an item that established the use of remaining bond funds ($80.705 M NAV 01) from the construction of the Convention Center ("Bond Funds"). It was reported in that Board Item that the final settlement with Clark Construction resulted in the project completing approximately $2,000,000 under budget. Including previously unallocated reserves in the bond fund, there was a total of $3,832,000 in funds remaining for allocation to eligible projects/uses. At the recommendation of FDO and Global Spectrum Staff, and with the recommendation of the TDC on December 9, 2004, the Board approved the re-allocation of funds to the projects identified in Attachment 1 to this report.

Of critical importance to this analysis are three notes that were included in that approval. Specifically those notes indicated that;

- **A Any funds remaining in this category would roll into the Project Modifications and Additions Balance.*
- **B Any funds remaining in this category would roll into the Capital Renewal/Replacement Fund Balance.*
- **C Additional contributions (to achieve 9% of the construction costs by Year 5) in the amount of $3,100,000 to the Renewal/Replacement Fund are recommended during Years 1-5 at $620,000/year.*

In June of 2005, FDO Staff made additional budget transfers necessary to implement this direction as many of the expenses and sub-projects had been encumbered and/or completed. As this Board item was being prepared, FDO Staff was advised by TDC that it would not be able to make the $620,000/year contribution from bed taxes (to supplement the $2,400,000 allocated from remaining bond funds), but only $250,000 annually.

Current Funding Availability

The following table reflects the current available funding for capital improvements projects at the Convention Center. Funds already encumbered for on-going projects are not reflected in the table. Funds remaining from completed categories of projects and interest earnings are all reflected in the reserve line (consistent with Note A of the Jan 2005 approval). It should be noted that TDC did not allocate any bed tax funding for renewal/replacement as previously directed.

Table 1
Convention Center CIP Funds as of January 1, 2009

Various CIP – Bond	$ 780,917
Interim Parking – Bond	$ 597,000
Renewal/Replacement – Bond	$ 2,400,000
Renewal/Replacement – Bed Tax	$ 0
Reserves – Bond	$ 2,898,000
Total	$ 6,675,917

Current Status of Previously Approved CIPs

As part of the 2005 re-allocation, a number of capital improvement projects were approved from the remaining bond funds. Attachment 2 to this Report identifies the current status of each of those projects. Attachment 3 carries forward and summarizes the projects, at a total cost of $315,000, recommended for continued funding from previously allocated funds.

Allocating $315,000 from the total of $1,377,917 assigned to the two categories called Various CIP and Interim Parking leaves $1,062,917 to be re-allocated to the R/R Fund (consistent with Note B of the Jan 2005 approval). This results in a suggested re-allocation according to Table 2.

Table 2
Convention Center CIP Funds as of January 1, 2009
Reflecting Re-Allocation After CIP Adjustment

Various CIP – Bond	$ 315,000
Renewal/Replacement – Bond	$ 3,462,917
Renewal/Replacement – Bed Tax	$ 0
Reserves – Bond	$ 2,898,000
Total	$ 6,675,917

Staff is also recommending that based on the reduced number of CIPs remaining, that Reserves be reduced to $500,000 and that the difference be added to the R/R Fund. This would result in a suggested re-allocation according to Table 3.

Table 3
Convention Center CIP Funds as of January 1, 2009
Reflecting Re-Allocation After Reserve Fund Adjustment

Various CIP – Bond	$ 315,000
Renewal/Replacement – Bond	$ 5,860,917
Renewal/Replacement – Bed Tax	$ 0
Reserves – Bond	$ 500,000
Total	$ 6,675,917

For the remainder of this report, the total of $5,860,917 will be referred to as the Renewal/Replacement Fund Seed Money.

Current Status of Renewal/Replacement Projects

Since the opening of the Convention Center, FDO and Global Spectrum Staff have been working very closely on monitoring the condition of the Convention Center. There has been a constant re-evaluation of the condition of the individual building systems and equipment to accurately forecast the year at which renewal/replacement is warranted for either operational and/or financial reasons. Eligible projects are projects that replace existing building systems, components or equipment when the replacement is made necessary due to wear and tear or damage. While renewal/replacement projects may include an upgrade/expansion component incidental to the replacement, the cause of the replacement must be wear/tear or damage to an existing asset. Attachment 4 to this report is that forecast. In a nutshell, each building/system or piece of equipment is tracked as to its expected life span at the time of installation. The condition is monitored to determine if, based on actual conditions, an accelerated or delayed replacement is appropriate. The costs of the individual projects are based on current costs escalated at 5% annually.

Attachment 4 forecasts the needs for renewal/replacement dollars over the next 10 years accordingly.

Table 4
Forecast of 10 year Renewal/Replacement Funding Requirements

2009	2010	2011	2012	2013
$69,200	$289,300	$867,900	$1,035,000	$3,160,350

2014	2015	2016	2017	2018
$1,813,400	$785,600	$723,000	$1,060,850	$697,000

How a Renewal/Replacement (R/R) Fund Works

A R/R Fund is set up to be a planned savings account allowing the funding agency to plan and budget for its annual contribution as a budget constant or given. This recognizes the renewal/replacement of the building infrastructure as a high priority - critical to the success of the program. This also ensures that the renewal/replacement of the physical plant (for which there is generally not a vocal advocacy until it is too late) is funded in good revenue years as well as bad. This is especially important for a facility like the Convention Center where the appearance and operation of the physical plant is directly related to the business attracted and the financial success of the Convention Center.

While the annual funding contributions are constant, the expenditures vary based on that constant re-evaluation of the condition. Expenditures may be less or more than forecasted for a particular year. It will be up to FDO and Global Spectrum staff to "manage" the fund to accomplish all of the projects within the amount accumulated within the fund. This will actually happen by FDO and Global Staff officially adjusting the renewal/replacement schedule each year prior to the submittal of the capital budget.

The total R/R funding forecasted over the next 10 years is $10,501,600. Assuming a 20% contingency the 10 Year R/R Fund Total should be established based on a requirement of $12,601,920. This is reduced by the R/R Fund Seed Money ($5,860,917 from Table 3) resulting in a remaining 10 Year R/R Fund Supplemental Funding Requirement totaling $6,741,003.

The annual requirement is based on an average over the 10 years resulting in an annual contribution of $675,000. This annual contribution is then reconciled against the expenses in the early years of the R/R Fund to ensure that there are adequate funds to cover the early year requirements. In the case of the Convention Center, this is not an issue due to the magnitude of the R/R Fund Seed Money previously established. The amount of the annual contributions should be re-evaluated every five years for the next 10 year period using the same methodology. The R/R Fund Balance at the time of the re-evaluation then becomes the R/R Fund Seed Money for that new 10 Year Period. It should be noted that contributions will likely increase substantially in the next evaluation period.

Recommendation

Staff's recommendations are; 1) the monies remaining in the bond fund be re-allocated according to Table 3 of this Report, 2) that annual contributions of $675,000 begin in FY 2010, and 3) that the amount of the annual contribution be re-addressed in time for adjustment in FY 2015.

Attachments:

1. January 11, 2005 BCC Item Reallocating Remaining Bond Funds Establishing Renewal/Replacement Fund
2. Outstanding CIP Review – January 10, 2009
3. Remaining CIP – January 10, 2009
4. Renewal/Replacement Program 2009-2024 – January 10, 2009

c: Robert Weisman, County Administrator
Verdenia Baker, Deputy County Administrator
Ross Hering, Director Property and Real Estate Management
Garth Josephs, Director Facilities Management
Jerry MacFarlane, Facilities Manager
Bernard Knowles, Maintenance Supervisor
Dave Anderson, General Manager, Global Spectrum

EXHIBIT B
ROGER DEAN STADIUM RENEWAL/REPLACEMENT REQUIREMENTS

January 20, 2009

To: Tourist Development Council, Finance Sub-Committee
From: Audrey Wolf, Director Facilities Development & Operations
Re: ***Roger Dean Stadium – Status of Renewal and Replacement Fund***

The purpose of this report is to provide the Tourist Development Council and the Board of County Commissioners with an update as to the status of the capital improvement program for Roger Dean Stadium. This report focuses on; 1) documenting the physical condition of the Stadium, 2) recommending the establishment of a Renewal/Replacement Fund (R/R Fund), and 3) recommending the amount and source of funding for the R/R Fund.

Background

In July 1996, the Board entered into a Sports Facility Use Agreement ("Use Agreement") for a Major League Baseball Spring Training Facility ("Stadium") with Jupiter Stadium, LTD ("Teams"), as amended and supplemented. The term of the Use Agreement is through April 2017. The Teams have two, five year options to extend at their discretion. The Use Agreement delineated all of the terms of use and assigned physical and financial responsibility for the day to day operation of the Stadium. There are two areas of the Agreement that are specifically relevant to this Report; 1) the assignment of responsibility for the maintenance of the Stadium and the standard to which the Stadium must be maintained, and 2) the creation of capital reserve account to be used solely for capital improvements or repair.

Maintenance

Maintenance of the Stadium is assigned physically and financially to the Teams. The only standard for maintenance is as follows.

"All Routine Maintenance shall be performed on a regular and on-going basis consistent with the standards of maintenance on facilities substantially similar to the facility..."

This language does not really establish any standards which are applicable on a day to day basis. The Teams have done a good job of maintaining the facility over the first 10 years, although signs of age and use are visible.

Capital Reserve Account

A capital reserve account in the amount of $1,200,000 was initially created to be disbursed from time to time by the County solely for the purpose of financing capital improvements or repairs at the Stadium during the term of the Agreement. The funds in the capital reserve account can be used for:

"...all labor and materials related to Capital Improvements or Repairs that have a useful life of more than one year which are reasonably required to repair, restore and or replace when reasonably necessary, all Stadium access ways, seating, equipment, painting, structural components or system components or integral parts of the Stadium."

All but $160,000 of the initial $1,200,000 was used towards the construction of the Stadium. As of this date the fund has a $0 balance. The capital reserve were spent on equipment purchases requested by the Teams. No provisions were made for funding of a formal capital improvement program or a traditional renewal/replacement fund.

The Use Agreement does indicate that "Capital Improvements or Repairs that cost in excess of any funds accumulated in the Capital Reserve Account shall be the responsibility of the Limited Partnership." However, no standard is delineated and no requirement to actually make capital improvements is identified. As long as the Teams are meeting the maintenance standard described above they are in compliance with the terms of the Agreement. It is typical for teams with similar agreement terms, to only address those maintenance and capital improvements which they believe are critical for the overall success of the Stadium during the term of their Agreement. Consideration is not given to expenses of the Owner which may be required to perform capital improvements, renewal/replacement or upgrades necessary to retain or attract another team at the end of the Agreement or just preserve the facility for use beyond the term of the Agreement. This not only leaves owners with a large expense to retain the existing team or attract a new team, but also increases the cost of individual projects by not addressing the problems when they are actually due and before they have triggered other repairs or failures.

Bond Private Activity Use Test

The bonds that were used to fund the design and construction of the stadium were tax exempt. It is important that the bonds retain this status as failure to maintain the tax exempt bond status could potentially cause the interest on the bonds to be taxable to the bondholders for federal income tax purposes. This would require the County to take prompt remedial action at a substantial cost to preserve the tax-exempt status. As it relates to this Report, this means that the value of any capital improvements or renewal/replacement project funded by the Team that extends past the term of the Agreement cannot exceed 10% of the value of the bonds or $2,801,000. The Teams initially funded $1,500,000 toward the cost of construction which applies against the 10% rule.

The value of any capital improvement funded by the Teams that extends past the term of the Agreement is counted toward private activity. While the capital improvements made to date do not have any residual value past the term, capital improvements made in the next 10 years will have value beyond the term. As such, attention must be paid to the amount of capital improvements funded by the Teams prior to December 2016, the time at which the final principal payment is made on the bonds and the private activity rules no longer apply.

Current Funding Availability

The Teams do not have a formal capital improvement program or dedicated funding stream for capital improvements. The Teams consider the needs and decide on the specific projects to be undertaken and the appropriate level of funding on an annual basis. There are currently no County funds programmed and budgeted for capital improvements or renewal/replacement at the Stadium.

How a Renewal/Replacement (R/R) Fund Works

A R/R Fund is set up to be a planned savings account allowing the funding agency to plan and budget for its annual contribution as a budget constant or given. This recognizes the renewal/replacement of the building infrastructure as a high priority - critical to the success of the program. This also ensures that the renewal/replacement of the physical plant (for which there is generally not a vocal advocacy until it is too late) is funded in good revenue years as well as bad.

While the annual funding contributions are constant, the expenditures vary based on that constant re-evaluation of the condition. Expenditures may be less or more than forecasted for a particular year. It will be up to FDO and the Teams staff to "manage" the fund to accomplish all of the projects within the amount accumulated within the fund. This will actually happen by FDO and the Teams officially adjusting the renewal/replacement schedule each year prior to the submittal of the capital budget.

Current Status of Renewal/Replacement Projects

FDO and the Teams have worked together to document the condition of the Stadium. The evaluation of the condition of the individual building systems and equipment was completed to accurately forecast the year at which renewal/replacement is warranted for either operational and/or financial reasons. Eligible projects are projects that replace existing building systems, components or equipment when the replacement is made necessary due to wear and tear or damage. While renewal/replacement projects may include an upgrade/expansion component incidental to the replacement, the cause of the replacement must be wear/tear or damage to an existing asset. Attachment 1 to this report is that forecast. In a nutshell, each building/system or piece of equipment is tracked as to its expected life span at the time of installation. The condition is monitored to determine if, based on actual conditions, an accelerated or delayed replacement is appropriate. The costs of the individual projects are based on current costs escalated at 5% annually.

Attachment 1 forecasts the needs for renewal/replacement dollars through the Year 2024. In the case of the Stadium, a forecast period of 12 years was used as the basis for determining the appropriate level of annual contribution to the renewal/replacement fund due to the magnitude of expenditures in Years 10-12. Table 1 summarizes those requirements.

Table 1
Forecast of 12 year Renewal/Replacement Funding Requirements

2009	2010	2011	2012	2013
$345,000	$846,600	$354,800	$662,500	$528,450

2014	2015	2016	2017	2018
$628,300	$445,110	$124,900	$54,100	$2,757,550

2019	2020
$2,360,550	$1,041,000

The total R/R funding forecasted over the next 12 years is $10,148,860. Assuming a 20% contingency the 12 Year R/R Fund Total should be established based on a requirement of $12,178,632. This results in an annual R/R Fund Requirement of $1,014,882.

As was previously indicated, the Teams have been making capital improvements since the inception of the Use Agreement. Attachment 2 identifies those capital improvements made by the Teams since the inception of the Agreement. Table 2 summarizes those capital expenditures. Expenses associated with hurricane repair have not been included.

Table 2
Accounting of Last 10 Years of Capital Improvement Funding by the Teams

1999	2000	2001	2002	2003
$227,100	$26,650	$137,600	$13,000	$97,100

2004	2005	2006	2007	2008
$102,580	$60,000	$79,900	$81,700	$442,400

The 10 year total of capital expenditures by the Team are $1,268,030 less $160,000 which was reimbursed by the County from the capital reserve account, resulting in total 10 Year expenditures of $1,108,030. This results in an average annual capital expenditure by the teams of $111,000. While the Teams are meeting the specific requirements of the Agreement by maintaining the facility in excess of the standard, there are capital improvements that are going unmet..

For the purposes of this analysis, if the Teams and the County were to agree, the Teams could make capital improvements amounting to approximately $234,000[c] annually for the remainder of the term and still not exceed the private activity rule.

However, this would obviously require agreement by the Team. For the remainder of this report, only the average historical annual capital expenditure was utilized.

Since the R/R Fund is starting with a $0 balance, the R/R Fund building at a rate of $1,014,882 annually needs to be reconciled against the expenses in the early years of the R/R Fund to ensure that there are adequate funds to cover the early year requirements. In the case of the Stadium, utilizing an annual contribution of $1,014,882 and the forecasted expenses shown in Table 1, the R/R Fund balance would be as follows.

Table 3
R/R Fund Balance 2010-2020

Year	Contribution	Expense	Balance
2010	$1,014,882	$846,600	$168,282
2011	$1,014,882	$354,800	$828,364
2012	$1,014,882	$662,500	$1,180,746
2013	$1,014,882	$528,450	$1,667,178
2014	$1,014,882	$628,300	$2,053,760
2015	$1,014,882	$445,110	$2,623,532
2016	$1,014,882	$124,900	$3,513,514
2017	$1,014,882	$54,100	$4,474,296
2018	$1,014,882	$2,757,550	$2,731,628
2019	$1,014,882	$2,360,550	$1,385,960
2020	$1,014,882	$1,041,000	$1,359,842

Table 3 indicates that annual contributions of $1,014,882 would be sufficient to cover projected expenses.

[c] This is based on eight years of remaining in the term, expenditures on items with an average lifespan of 18 years, and a straight line depreciation of the value of the life of the improvement. Before any specific amount was agreed to with the Teams a specific analysis of remaining value, specific to that improvement, would have to be calculated.

Recommendation

Due to the lack of a formal capital improvement program and a traditional renewal/replacement fund, the issue of establishing financial responsibility for needed capital Improvements and a renewal/replacement fund needs to take into account the requirements/restrictions on the bonds.

1. Establish a R/R Fund with total annual contributions of $1,014,882. The amount of the annual contributions should be re-evaluated every five years for the next 10 year period using the same methodology.
2. Commence discussions with the Team for an amendment to the Agreement to address the Team's annual contribution to the R/R Fund, which should be no less than $111,000 annually (this would reduce the County contribution). In addition, the amendment would modify the capital reserve account provisions of the Agreement to reflect the agreed upon procedures for use of the account for renewal/replacement purposes, a term adjustment as well as any other provisions that the Teams and County believe need revisions.

Attachments:

1. Renewal/Replacement Program 2009-2024 – January 12, 2009
2. Historical Capital Improvements 1999-2009 – January 10, 2009

c: Robert Weisman, County Administrator
Verdenia Baker, Deputy County Administrator
Ross Hering, Director Property and Real Estate Management
Garth Josephs, Director Facilities Management
Jerry MacFarlane, Facilities Manager
Bernard Knowles, Maintenance Supervisor
Claude Delorme, Sr. Vice President Stadium Development, Florida Marlins
Joe Pinto, General Manager, Roger Dean Stadium

EXHIBIT "C"

Convention Center

Construction, enlargement, renewal and replacement, and debt service for the Convention Center is authorized under Section (b)(1), subsection h of the Plan to be funded out of the 1st cent. Debt service on the Convention Center is also authorized to be paid out of the 4th cent under Section (b)(1), subsection i 1 of the Plan.

Section (b)(1)(i) of the Plan also allows 4th cent revenues to be used to fund operation and maintenance costs for a period of 10 years. This 10-year period expires in 2012, however a re-adoption of the Plan will act to remove this 10 year limitation.

Baseball Stadium

Section (b)(1), subsection i 1 of the Plan authorizes funding of debt service relating to bonds issued to finance the construction of professional sports facilities out of the 4th cent. There is nothing currently in the Plan authorizing funding of Renewal and Replacement for the Baseball Stadium, however, Florida Statutes Section 125.0104(3)(l)1 allows for use of the 4th cent for such purposes. An amendment to the Plan would be required to specifically authorize 4th cent revenues to be used for this purpose.